REMARKS

Overview

The Examiner has objected to claims 135-149 as being dependent upon a rejected base claim, but indicated that the claims would be allowable if rewritten in independent form. The Examiner also responded in the prior Office Action as follows: provisionally rejected claim 134 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 134 of co-pending Application No. 09/907,029 in view of Straub et al. (U.S. Patent No. 6,091,411); and rejected claims 150-204 under 35 U.S.C. § 102(e) as being anticipated by Burkey et al. (U.S. Patent No. 6,446,076).

Applicants hereby amend claims 150-155, 158, 164, 166-170, 174, 177, 180, 183-184, 186 and 191-192 in order to clarify the subject matter of their invention. Applicants further hereby cancel claims 134-149. Thus, claims 150-204 are now pending.

Analysis

Applicants thank the Examiner for the indication of allowable subject matter with respect to claims 135-149. However, Applicants have canceled claims 135-149, as well as claim 134, and thus the provisional rejection of pending claim 134 is now moot.

The Examiner has rejected each of the other previously pending claims 150-204 under 35 U.S.C. § 102(e) as being unpatentable over Burkey. However, each of the pending claims as rejected includes features and provides functionality not disclosed by Burkey or the other references, and thus is allowable over those references.

In particular, each of the previously pending rejected claims 150-183 generally recites receiving at a computing device one or more themes that are distributed by an external source (e.g., a theme server device that distributes the themes to various computing devices used by various users) and that each represent a contextual situation, and then customizing the received theme to reflect the computing device and/or its user so that the customized theme may automatically be selected when its represented contextual situation occurs so that appropriate information or other response may be provided. Each of the previously pending rejected claims 184-204 generally further recite defining a default theme before it is customized.

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The Examiner has asserted that the "user personas" described by Burkey correspond to Applicants' themes, and that Burkey describes all of the recited claim elements with respect to such user personas – such user personas are generally described by Burkey from column 30 line 51 to column 31 line 48, which indicates that a user may manually create multiple user personas for their own use (*e.g.*, a "Work" user persona with a work address, and a "Home" user persona with a home address), and may then manually select an appropriate user persona based on the location from which the user is accessing a centralized system. However, even assuming that such user personas are analogous to Applicants' themes, Burkey falls far short of disclosing various of the recited claim elements. For example, it is unclear what activities in Burkey could possibly correspond to the theme customizing activities recited in Applicants' claims. While the Examiner has cited lines 21-35 of column 34 as showing such customizing, that cited passage (included below for reference purposes) is unrelated to making any changes to a user persona (in fact, the passage makes no mention of any user persona), and instead merely indicates that a Web page sent to a customer may be personalized to the customer based on the customer's preferences and personal information – such personalizing of requested data (here a Web page) is completely unrelated to the customizing of a user persona. Moreover, Applicants can find no other teaching, suggestion or motivation in Burkey to customize user personas in the recited manner.

> FIG. 18 discloses the detailed interaction between a consumer and the integrator involving one supplier. The user accesses a Web Browser 1810 and requests product and pricing information from the integrator. The request is sent from the user's browser to the integrator's Web/Application Server 1820. The user's preferences and personal information is obtained from an integrator's customer profile database 1830 and returned to the Web/Application server. The requested product information is extracted from the supplier's product database 1840 and customized for the particular customer. The Web/Application server updates the supplier's customer information database 1850 with the inquiry information about the customer. The product and pricing information is then formatted into a Web Page 1860 and returned to the customer's Web Browser. (Burkey, 34:21-35, emphasis added.)

In addition, the pending claims as amended reflect even further distinctions from Burkey. For example, independent method claim 150 as amended recites "receiving at the computing device multiple uncustomized themes supplied from one or more external sources that further supply the multiple uncustomized themes to multiple other distinct computing devices whose users are distinct from a user of the computing device, each of the received themes representing a contextual situation and associated with a type of response that is appropriate to the represented contextual situation" and "customizing at least one of the received themes to reflect the

computing device and/or the user of the computing device". Thus, the one or more external sources supply uncustomized themes to multiple distinct computing devices with multiple users, and at least one of the received themes is then customized specifically for the computing device and/or its user before it is used to provide an appropriate response for its represented contextual situation. Moreover, dependent claim 151 as amended further recites that each of multiple other computing devices with other users receive at least one of those uncustomized themes and perform their own distinct customizing of their received theme. Independent computer-readable medium and system claims 177, 180 and 183 as amended each recite similar language to that of claim 150.

However, Burkey provides no suggestion or motivation for distributing an uncustomized theme to multiple distinct computing devices and users so that the theme may then be customized for their use. As previously noted, Burkey describes only that a user may create his/her own user persona(s) and may access them from central storage from various computing systems (*e.g.*, a computing system at work and a computing system at home). Moreover, Burkey teaches away from Applicants' recited distribution and customizing of themes in multiple ways. For example, since each user persona is created to be specific to a user and has associated user-specific information, it would not only be unhelpful to distribute such a user persona to another user, but it would expose a user's personal information (in a potentially unlawful manner) to other users (examples in Burkey of such personal information include social security numbers, credit card information, addresses, etc.). In addition, Burkey emphasizes storing user-specific information in "one central storage place . . . accessible by any device that is connected to the Internet" so that a user "only [has] to maintain one version of this data in order to have it available whenever it is needed and in whatever formats it is needed" and so that "numerous access devices can be used to customize services for the user" (Burkey, 33:19-31) – such an argument teaches away from distributing a user persona to multiple different computing devices where the user persona will be customized in distinct manners for each of the computing devices.

Thus, for at least each of the reasons that Burkey does not teach, suggest or motivate the distribution of uncustomized themes to multiple computing devices for individual customization and use or the customization of received themes at a computing device in a manner specific to the computing device and/or its user, claims 150, 177, 180 and 183 are each patentable over Burkey, as are the claims that depend from those claims.

In addition, independent method claim 184 as amended similarly recites customizing a default uncustomized theme after defining of the theme, and in particular recites "defining a default uncustomized theme representing a contextual situation by . . . and customizing the defined default theme based on the portable computing device and based on a user of the portable computing device so that the portable computing device can use the customized theme to present the appropriate information to the user in a manner specific to the portable computing device and the user." In addition, dependent claim 186 as amended further recites "customizing the defined default theme for each of multiple other computing devices having distinct users such that each of the customized themes are distinct". Independent computer-readable medium and system claims 203 and 204 each recite similar claim elements to that of claim 184.

As previously discussed, Burkey provides no teaching, suggestion or motivation for customizing such themes in any situation, let alone after first defining a default uncustomized theme or in such a manner as to create multiple customized versions of a theme for each of multiple computing devices with distinct users. Thus, each of claims 184, 203 and 204 are patentable over Burkey for at least these reasons, as are the claims that depend from these claims.

The pending dependent claims include the features of those claims from which they depend, and are thus allowable for the same reasons as those claims. Moreover, the pending dependent claims also recite various additional features lacking in the cited references, and are thus allowable on the basis of those features as well. For example, claim 152 as amended recites that "the determining that the one theme represents the current contextual situation is performed automatically based on the included values of the current contextual situation containing values for the context attributes of the one theme that the criteria of the one theme determines to be matching values," claim 154 as amended recites that customizing of one or more themes "is performed automatically without intervention by the user," claim 164 as amended recites "automatically customizing the one theme" based on "determining that the provided type of response associated with the one theme is inappropriate for the current contextual situation," and claim 166 as amended recites "automatically customizing one of the available themes" based on "determining that the no available theme represents the current contextual situation." However, as previously discussed, Burkey discloses only that a user manually creates one or more user personas and manually selects to use a particular persona, and thus clearly does not teach, suggest or motivate any automatic customizing of a theme, let alone when an associated response
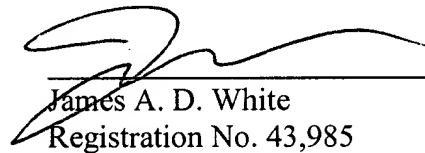
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is determined to be inappropriate or when no available theme represents a current contextual situation. Thus, for each of these reasons as well, as well as for additional reasons not discussed for the sake of brevity, the pending dependent claims are further allowable over Burkey.

Conclusion

In light of the above remarks, Applicants respectfully submit that all of the pending claims are allowable. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 694-4815.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,
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